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COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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March 18, 2004

Ms. Mai T. Dinh, Acting Assistant General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Ms. Dinh:

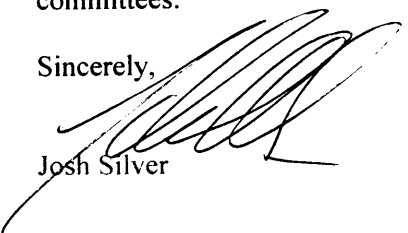
I am writing to express my concerns about the proposed rules that would establish a new threshold for when an organization becomes a regulated political committee, subject to fundraising and spending rules under the Federal Election Campaign Act. As a consultant to many non-profit organizations, I find the proposed rules troubling for the following reasons:

1. Although the explanation portion of the 108 page proposed rule says it is not intended to apply to organizations exempt under section 501(c) of the tax code, the language of the proposed rule itself does not have this limit.
2. The proposed rule fails to define what constitutes "promoting, supporting, attacking or opposing" a federal candidate, leaving the door open to regulation of nonpartisan lobbying communications.
3. The proposed rules hinder the ability of nongovernmental organization from speaking up about important public policy issues and limit non-profit organization's participation in the democratic process. Issue advocacy should not be regulated by the FEC.
4. Non-profit organizations are already heavily regulated by both the IRS and the FEC. These entities have different scopes of oversight and regulation and a separation between the two should be maintained. Tax law should not be imported wholesale into election law.
5. Where ambiguity in the law exists, election related regulation or restriction of speech or regulation of organizations not expressly provided for by the Bipartisan Campaign Reform Act of 2002 or the Federal Election Campaign Act must be imposed by Congress, and not through an administrative rulemaking.

Lastly, and perhaps most importantly, I believe strongly that no new rules should be applied retroactively or during this election season, which is already underway. Nonprofits and the public need clarity and reasonable notice on all rules published by the FEC. All rules must be clear enough to avoid stifling genuine issue advocacy and nonpartisan voter mobilization activity.

I urge you to reconsider the proposed rules that will potentially redefine many non-profits as political committees.

Sincerely,

  
Josh Silver